

[Senate, March 30, 2009 — Pursuant to the provisions of Senate Rule 19, the committee on Ways and Means reports the following bill: 31, 2009 – Text of the Senate Bill An Act providing responsible reforms in the pension systems (Senate, No. 2025), printed as amended.]



## The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND SEVEN

### AN ACT PROVIDING RESPONSIBLE REFORMS IN THE PENSION SYSTEM.

*Be it enacted by the Senate and House of Representatives in General Court assembled,  
And by the authority of the same, as follows:*

**SECTION 1.** Section 1 of chapter 32 of the General Laws is hereby amended in lines

397-403 by striking out, in lines 397 to 401, inclusive, as appearing in the 2006 Official Edition,

the words: -“Regular Compensation”, during any period subsequent to December thirty-first,

nineteen hundred and forty-five, shall mean the salary, wages or other compensation in

whatever form, lawfully determined for the individual service of the employee by the

employing authority, not including.”

and inserting in the place thereof the following words:-

“Regular Compensation”, during any period subsequent to July 1, 2009 first, two thousand and

nine, shall mean the salary, wages or other compensation in whatever form, lawfully determined

for the individual service of the employee by the employing authority, not including, regardless

**Comment [A1]:** Panagiotakos amendment #14

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of federal taxability, commissions, indirect payments, in-kind payments or any payments for such items as housing, lodging, travel, annuities or other retirement benefits.”

**SECTION 1.** Section 1 of chapter 32 is hereby amended by inserting following the definition of “Regular compensation”, the following:

“Regular compensation” for compensation received by any employee hired after June 30, 2009, shall mean exclusively wages received by an employee for services performed in the course of employment for his employer.

“Wages” for purposes of this chapter shall mean the base salary or other base compensation of an employee paid directly to that employee for employment by an employer plus amounts paid as educational incentives, amounts paid for length of service, amounts paid as premiums for shift differentials, and amounts paid as cost of living bonuses or cost of living pay adjustments, as contained in any applicable collective bargaining agreement or individual contract for employment.

All other forms of compensation not in conformity with the foregoing, including but not limited to overtime, amounts paid for additional services or for work beyond the normal work year, commissions, bonuses other than cost of living bonuses, amounts derived from any salary enhancements or salary augmentation plans of any kind, temporary or ad hoc payments or increases to base salary, indirect, in-kind or any payments for such items as housing, lodging, travel, annuities or other retirement benefits, welfare benefits, workers’ compensation benefits, job-related expense payments, automobile usage, insurance premiums, dependent care assistance, tuition or any other fringe benefits, payments in kind and all payments in any medium other than cash received by an individual from his employing unit for services rendered to such employing unit, shall not, regardless of federal taxability, be considered regular

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34 compensation for purposes of this chapter. Wages shall also not include payment in lieu of or  
35 for unused vacation or sick leave, or the payment for termination, severance, dismissal, or any  
36 amounts paid as premiums for working holidays, except as authorized by law, any amounts paid  
37 as early retirement incentives or any other payment made as a result of the employer having  
38 knowledge of the member's retirement.

39 SECTION 2. Section 4 of said chapter 32 is hereby amended by striking out, in lines 5  
40 to 7, inclusive, as so appearing, the following words:-

41 “;provided, that he shall be credited with a year of creditable service for each calendar  
42 year during which he served as an elected official;”

43 SECTION 3. Paragraph Subdivision (1) of said section 4 of said chapter 32 is hereby  
44 amended by striking out paragraphssubdivisions (o) and (o ½), as so appearing, and inserting in  
45 place thereof the following subdivision paragraph:-

46 (o) Notwithstanding any general or special law to the contrary, an individual who serves  
47 as an unpaid municipal, county or state employee, or an individual who serves as an unpaid  
48 elected or appointed municipal, county or state official, or an individual who serves as ~~a~~ an  
49 unpaid special county employee, special municipal employee or special state employee, as  
50 defined in section 1 of chapter 268A ~~of the General Laws~~, shall not be permitted to apply  
51 creditable service as a result of serving in said-that position in order to increase his allowable  
52 retirement allowance under this chapter ~~32.~~

53 SECTION 3A. Said subdivision (1) of said section 4 of said chapter 32 is hereby further  
54 amended by adding inserting, after subdivisionparagraph (o), the following  
55 subdivisionparagraph:-

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Comment [A2]: Tisei, et al amendment #4

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(o ¾) Notwithstanding any general or special law to the contrary, any municipal, county or state employee who receives compensation ~~that is~~ of less than \$5,000 annually shall not be permitted to apply creditable ~~be permitted to apply creditable~~ service as a result of service in a position paying less than \$5,000 annually which occurs on or after January 1, 2010, in order to increase his allowable retirement allowance under ~~this chapter 32.~~

**SECTION 4.** ~~Subsection-Subdivision~~ (2) of section 5 of ~~said~~ chapter 32 ~~of the General Laws,~~ as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

(e) ~~Notwithstanding and general or special law to the contrary, Any~~ person who has been a member of ~~two~~ 2 or more systems, and who, on or after January 1, 2010, ~~first, two thousand and ten,~~ has received regular compensation from ~~two-2~~ 2 or more governmental units concurrently, shall, ~~notwithstanding and general or special law to the contrary,~~ upon retirement, receive a superannuation retirement allowance to become effective on the date of retirement that is equal to the sum of the benefits calculated pursuant to this section as though the member were retiring solely from each system; ~~i~~ provided, however, that ~~the provisions of~~ this paragraph shall not apply to a member who has received part-time creditable service in ~~one~~ 1 or more systems; ~~and~~ provided, further, that, notwithstanding ~~the provisions of~~ paragraph (c) of ~~subsection subdivision~~ (8) of section 3, each system shall pay the superannuation retirement allowance attributable to membership in that system to the member.

**SECTION 5.** ~~Subsection-Section~~ 7(2)(a)(ii) of ~~said~~ chapter 32, as ~~so~~ appearing in the 2006 Official Edition of the Massachusetts General Laws, is hereby amended by inserting after the words “~~whichever is greater;~~”, in line 73, the following words:-

Comment [A3]: Panagiotakos amendment #14

78 | “provided, however, that if on the date of such injury was sustained or such  
79 | hazard was undergone, the individual was in a temporary or acting position, the amount  
80 | to be provided under this ~~paragraph subdivision~~ shall be based on the average annual  
81 | rate of ~~his the individual’s~~ regular compensation during the previous ~~twelve~~12-month  
82 | period for which he last received regular compensation immediately preceding the date  
83 | his retirement allowance becomes effective; provided further, that if the individual was  
84 | in a temporary or acting position, the board may review the severity of the injury or  
85 | hazard and the circumstances surrounding the injury or hazard and may authorize a  
86 | yearly amount of pension equal to ~~seventy two~~ 72 per cent of the annual rate of his  
87 | regular compensation on the date such injury was sustained or such hazard was  
88 | undergone;”

89 | SECTION 6. ~~Paragraph (1) of s~~Section 10 of ~~said~~ chapter 32, ~~as so appearing~~, is hereby  
90 | amended ~~in line 4~~ by striking out ~~in line 4~~, the words “or fails of nomination or ~~re~~-election;”.

91 | SECTION 7. Said ~~paragraph (1) of~~ section 10 of ~~said~~ chapter 32, ~~as so appearing~~, is  
92 | hereby further amended ~~in lines 7 to 9, inclusive~~, by striking out ~~in lines 7 to 9, inclusive~~, the  
93 | words “or fails of nomination or ~~re~~-election, or fails to become a candidate for nomination or re-  
94 | election;”.

95 | SECTION 8. ~~Subsection (a) of paragraph (2) of s~~Said section 10 of ~~said~~ chapter 32, ~~as~~  
96 | ~~so appearing~~, is hereby ~~further~~ amended ~~in lines 50 to 51~~ by striking out ~~in lines 50 and 51~~, the  
97 | words “~~and who~~ fails of nomination or re-election, ~~or~~”.

98 | ~~SECTION 8A~~. Said section 10 of said chapter 32, ~~as so appearing~~, is hereby further  
99 | ~~amended by striking out, in line 79, the word “six” and inserting in place thereof the following~~  
100 | ~~figure:- 10.~~

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Comment [A4]: Morrissey-Tisei-Tarr amendment #11

Comment [MDM5]: Moved and Section # changed from 8B to 8A by BTR because of numerical order of sections being affected.

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101 SECTION 8B. Said chapter 32 is hereby further amended by inserting after section  
102 22D the following new section:-  
103 Section 22E. Notwithstanding any general or special law to the contrary, a pension impact  
104 statement shall be filed not later than 30 days after the effective date of any law that affects the  
105 commonwealth's pension liability, as defined in section 1, by changing the benefits or  
106 contributions of classes of members including, but not limited to, early retirement incentive  
107 programs. The pension impact statement shall be prepared or approved by the actuary of the  
108 public employee retirement administration commission and shall analyze, study, and evaluate  
109 the costs and the actuarial liabilities attributable to such change. The actuary shall file the  
110 pension impact statement with each retirement system to which any portion of the change in  
111 liability is attributable and shall send a copy to the secretary of administration and finance and  
112 the house and senate committees on ways and means. The actuary may subsequently revise the  
113 estimates in a pension impact certificate and revise the required contribution schedule it requires  
114 accordingly.

**Comment [A6]:** Hedlund, et al amendment #10

**Comment [MDM7]:** Moved and section # changed from 11 to 8B by BTR because of numerical order of section being added.

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115  
116 SECTION 8AC. Paragraph (e) of ~~subsection~~ subdivision 2A of section 23 of said  
117 chapter 32, as ~~so appearing in the 2006 Official Edition,~~ is hereby amended by adding the  
118 following clause: -

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**Comment [A8]:** Tisei amendment #6

**Comment [MDM9]:** Re-numbered from 8A to 8C by BTR due to order of sections being affected.

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119 "(xv) not award any compensation package that includes incentive payments for  
120 performance in any year in which the total value of the fund is reduced from the total value  
121 thereof in the preceding year.

122 SECTION 8B. ~~Section 10 of Chapter 32 of the General Laws, as so appearing, is hereby~~  
123 ~~amended in paragraph (b) of subsection (2) by striking out the word "six" in line 79 and~~  
124 ~~inserting in place thereof the following word: "ten"~~

**Comment [A10]:** Morrissey-Tisei-Tarr amendment #11

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125 SECTION 8C. ~~Section 8a shall apply to persons who initially become a member of~~  
126 ~~Group 1, Group 2 or Group 4 as classified pursuant to section 3 of Chapter 32 of the General~~  
127 ~~Laws, on or after the effective date of this act.~~

**Comment [MDM11]:** Moved from being 8C to 11 by BTR because of order of sections (outside section coming after changes to general and session laws).

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129           **SECTION 9.** Section 111 of chapter 182 of the acts of 2008 is hereby amended by  
130 adding the following paragraph:-

131 The ~~C~~ommission shall review ~~Massachusetts~~ contributory retirement systems and make  
132 comprehensive recommendations to reform current laws and practices. Issues the ~~C~~ommission  
133 shall examine, ~~shall~~ include, but ~~are not~~ be limited to: 1) ~~C~~urrent and future employee pension  
134 plans and contribution structures; 2) ~~T~~ermination allowances pursuant to section 10 of chapter  
135 32 of the General ~~L~~aws; 3) ~~G~~roup classification systems; 4) ~~C~~apping annual pension  
136 benefits; 5) ~~P~~enalties for pension fraud; 6) ~~E~~ligibility ~~for and the~~ level of benefits for  
137 employees who participate under 2 or more retirement systems; 7) ~~Q~~ualifications for credit for  
138 service pursuant to section 4 of said chapter 32 ~~of the General Laws~~, including minimum  
139 compensation limits for officials to be eligible for credit for service. The commission shall ~~file~~  
140 prepare a report of its findings and recommendations, including any drafts of legislation  
141 necessary to put its recommendations into effect, and file the same with the joint committee on  
142 public service no later than September 1, 2009.

143           **SECTION 10.** Notwithstanding any general or special law to the contrary, the  
144 Massachusetts Bay Transportation Authority or any successor authority, shall enter into an  
145 agreement to establish retirement or pension benefits or amend existing retirement or pension  
146 benefits ~~only if so that~~ any employee hired after the effective date of the agreement or  
147 amendment ~~may shall~~ not receive a retirement or pension benefit prior to the completion of 25  
148 years of credited pension service and before he has attained 55 years of age. The Massachusetts  
149 Bay Transportation Authority ~~is not prohibited by this section from permitting~~ may authorize  
150 such an employee to retire ~~ment~~ prior to attaining age 55 if ~~provided however, that either:~~ (i)

151 the employee is entitled to a disability pension under the Massachusetts Bay Transportation  
152 Authority retirement system; or (ii) the employee has earned the maximum percentage allowed  
153 under the retirement formula of the Massachusetts Bay Transportation Authority retirement  
154 system and ~~that~~ the employee waives, until attaining age 55, the ability his right to collect a  
155 pension and retirement benefit otherwise due at the time of retirement until attaining age 55.

156 SECTION 11. Chapter 32 of the General Laws, as appearing in the 2006 Official  
157 Edition, is hereby amended by inserting after section 22D the following new section:-

158 Section 22E. (1) Notwithstanding the provisions of any general or special law to the  
159 contrary upon the passage of any legislation making changes to any general or special law the  
160 that affects the commonwealth's pension liability, as defined in section 1, that changes the  
161 benefits or contributions of classes of members, including but not limited to early retirement  
162 incentive programs, a pension impact statement shall be filed not later than 30 days after such  
163 adoption. The pension impact statement shall be prepared or approved by the actuary of the  
164 public employee retirement administration commission and shall analyze, study, and evaluate  
165 the costs and the actuarial liabilities attributable to the change. The actuary shall also file the  
166 pension impact statement with each system to which any portion of the change in liability is  
167 attributable and shall send a copy thereof to the secretary for administration and finance and the  
168 house and senate committees on ways and means. The actuary may subsequently revise the  
169 estimates in a pension impact certificate and revise the required contribution schedule it requires  
170 accordingly.

**Comment [A12]:** Hedlund, et al amendment #10

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SECTION 112. Notwithstanding any special or general law to the contrary, any amount, benefit or payment included in the definition of “regular compensation”, by law or by regulation, as of on June 30, 2009, and included in any applicable collective bargaining agreement or individual contract for employment in effect on June 30, 2009, shall continue to be included in the definition of compensation.

- Comment [A13]: Panagiotakos amendment #14
- Comment [MDM14]: # changed from 12 to 11, see comment below.
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SECTION 12. Section 8A shall apply to persons initially classified as members of Group 1, Group 2 or Group 4 pursuant to section 3 of chapter 32 of the General Laws on or after the effective date of this act.

- Comment [MDM15]: Moved from being 8C to 12 by BTR because of order of sections (outside section coming after changes to general and session laws).
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SECTION 13. Section 1 shall be effective on July 1, 2009.

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SECTION 143. Except as expressly provided otherwise and notwithstanding the provisions of subdivision (5) of section 25 of chapter 32 of the General Laws, the provisions of this act shall apply to all members of retirement systems who retire after its effective date.

SECTION 14. Section 1 shall take effect on July 1, 2009.

- Comment [MDM16]: Changed from 13 to 14 and moved to end by BTR because effective dates generally go at end of bill.
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